

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE DISTRICT OF PUERTO RICO

3                   DAVID APONTE-MIRANDA,  
4

5                   Plaintiff

6                   v.  
7                   SENSORMATIC ELECTRONICS CORP.  
8                   and its insurance carrier A,

9                   Defendants

CIVIL 04-1010 (DRD)

10                  MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

11                  I.

12                  This matter is before the court on unopposed motion for summary judgment  
13 filed on May 6, 2005 by defendant Sensormatic Electronics Corp. (Docket No. 19.)  
14 The case was referred to me for report an recommendation on November 14, 2005.  
15 (Docket No. 24.)

16                  Having considered the arguments of the defendant, the evidence in the record  
17 (particularly as detailed in the statement of uncontested facts (Docket No. 20) and  
18 the applicable law, I recommend that the defendant's motion for summary judgment  
19 be GRANTED and that the complaint be dismissed.

20                  II.

21                  The factual background, recited in the light most favorable to the plaintiff, is  
22 taken from the complaint and from the statement of uncontested facts submitted by  
23 the defendant. Plaintiff, a resident of Aguadilla, Puerto Rico, worked for the  
24 defendant as an electronic technician since 1999. (Docket No. 20, ¶ 1.) He paid  
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1 CIVIL04-1010 (DRD)

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3 premiums for long term disability insurance. The defendant allegedly received  
4 payments but did not make appropriate arrangements for payment to the insurance  
5 company. Therefore, the insurance company refused payment to plaintiff at the time  
6 he became disabled. Plaintiff thus argues that the defendant incurred in negligence  
7 and that as a result, plaintiff received no income.

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9 TYCO International (US), Inc. maintains a Long Term Disability Plan ("LTD  
10 Plan") for all of its employees, including its affiliated companies in Puerto Rico.  
11 (Docket No. 20, ¶ 2.) According to the terms of LTD Plan, a participant such as  
12 Aponte is provided with loss of income protection if he becomes disabled from a  
13 covered accidental bodily injury, or sickness. (Docket No. 20, ¶ 3.) The LTD Plan  
14 is a comprehensive group plan that is administered by the plan administrator, TYCO,  
15 International (US), Inc., with benefits provided in accordance with the provisions  
16 of the group plan. (Docket No. 20, ¶ 4.)

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18 On March 27, 2002, plaintiff ceased to work due to a temporary lay-off.  
19 (Docket No. 20, ¶ 5.) His last day of work was March 26, 2002, after which he never  
20 returned to work. (Docket No. 20, ¶ 6.) On April 29, 2002, plaintiff's treating  
21 physician completed paperwork regarding plaintiff's inability to work as of that date.  
22 Plaintiff informed Sensormatic that during the lay-off period, he had begun to  
23 experience pain in his left leg. (Docket No. 20, ¶ 7.) On October 2, 2002,  
24 Sensormatic notified plaintiff of his right to submit a Long Term Disability claim.  
25 (Docket No. 20, ¶ 8.) In November, 2002, plaintiff applied for long term disability  
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1 CIVIL04-1010 (DRD)

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3 benefits pursuant to TYCO's LTD Plan. (Docket No. 20, ¶ 9.) Plaintiff's LTD claim  
4 was submitted to Hartford Life Insurance Company under policy No. GLT 206835.  
5 (Docket No. 20, ¶ 10.) LTD coverage under the Hartford policy had become effective  
6 for Sensormatic employees on April 1, 2002. (Docket No. 20, ¶ 11.) On May 7,  
7 2003, Hartford Life denied plaintiff's request for LTD benefits and informed him that  
8 pursuant to ERISA he could appeal the decision. (Docket No. 20, ¶ 12.) Hartford  
9 Life denied coverage under the LTD Plan because plaintiff never became insured  
10 under the policy since he was not actively at work on the coverage effective date,  
11 April 1, 2002, nor at any time thereafter. (Docket No. 20, ¶ 13.) Hartford rejected  
12 continuing coverage from the previous LTD policy because plaintiff was not an active  
13 employee the day before Hartford's policy became effective, as required by the terms  
14 of the policy. (Docket No. 20, ¶ 14.) On July 17, 2003, Hartford denied plaintiff's  
15 appeal of the denial of LTD benefits. (Docket No. 20, ¶ 15.) The Summary Plan  
16 Description (SPD) of the LTD Plan states that TYCO is the plan administrator and  
17 sponsor for the LTD Plan. (Docket No. 20, ¶ 16.) Hartford has the exclusive  
18 discretionary right to interpret the terms and provisions of the LTD Plan. (Docket  
19 No. 20, ¶ 17.)

20 Plaintiff originally brought a lawsuit in the Puerto Rico Court of First  
21 Instance, Aguadilla Division, and the case was removed under the Employee  
22 Retirement Income Security Act, 29 U.S.C. § 1001 *et seq.* (hereinafter "ERISA"). The  
23 defendant removed the case to this court pursuant to 28 U.S.C. § 1446. (Docket No.  
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1 CIVIL04-1010 (DRD)

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3 1.) The defendant now moves for summary judgment claiming that the decision to  
4 deny plaintiff's Long Term Disability benefits claim was neither capricious nor  
5 arbitrary, and should thus be upheld by the court. In the alternative, the defendant  
6 seeks dismissal of the complaint because Sensormatic is not a proper party  
7 defendant to this action.

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9 In considering the motion for summary judgment, the court must view the  
10 facts in light most hospitable to the nonmoving party, drawing all reasonable  
11 inferences in that party's favor. Patterson v. Patterson, 306 F.3d 1156, 1157 (1<sup>st</sup>  
12 Cir. 2002). A fact is considered material if it has the potential to affect the outcome  
13 of the case under applicable law. Nereida-González v. Tirado-Delgado, 990 F.2d 701,  
14 703 (1<sup>st</sup> Cir. 1993).

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16 The Supreme Court has established the appropriate standard for reviewing the  
17 denial of ERISA benefits. In Firestone Tire & Rubber Co. v. Bruch, 489 U.S. 101,  
18 115 (1989), the Court stated that the standard of review depends upon whether "the  
19 benefit plan gives the administrator or fiduciary discretionary authority to  
20 determine eligibility for benefits or to construe the terms of the plan." If such a  
21 grant of discretionary authority exists, the denial of ERISA benefits must be  
22 examined under the deferential "arbitrary and capricious" standard of review. Terry  
23 v. Bayer Corp., 145 F.3d 28, 37 (1<sup>st</sup> Cir. 1998); Recupero v. New Eng. Tel. & Tel. Co.,  
24 118 F.3d 820, 827 (1<sup>st</sup> Cir. 1997). Otherwise, the standard of review is de novo.  
25 Firestone Tire & Rubber Co. v. Bruch, 489 U.S. at 115; Rodríguez-Abreu v. Chase  
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1 CIVIL04-1010 (DRD)

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3 Manhattan Bank N.A., 986 F.2d 580, 583 (1<sup>st</sup> Cir. 1993). Therefore, the court must  
4 look at the text of the employee benefit plan at issue and decide whether the  
5 provisions of said plan reflect a clear grant of discretionary authority to decide  
6 eligibility for benefits or to interpret the terms of the Plan. The LTD Plan, at page  
7 16, states the following:

9 Who interprets policy terms and conditions?

10 We have full discretion and authority to determine  
11 eligibility for benefits and to construe and interpret all  
terms and provisions of the Group Insurance Policy.

12 (Docket No. 20, Statement of Uncontested Facts, Ex. A, Attach. 2, at 17.)

13 The language of the Plan itself reveals that the grant of discretionary authority  
14 to the plan administrator to make eligibility determinations and to construe the  
15 terms of the Plan is clear and express. Thus, the deferential arbitrary and  
16 capricious standard is the appropriate standard for analyzing Aponte's ERISA  
17 claims.

18 The arbitrary and capricious standard requires that the court "ask whether  
19 the aggregate evidence, viewed in the light most favorable to the non-moving party,  
20 could support a rational determination that the plan administrator acted arbitrarily  
21 in denying the claim for benefits." Twomey v. Delta Airlines Pilots Pension Plan, 328  
22 F.3d 27, 31 (1<sup>st</sup> Cir. 2003) (quoting Leahy v. Raytheon Co., 315 F.3d 11, 18 (1<sup>st</sup> Cir.  
23 2002)).

1 CIVIL04-1010 (DRD)

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3       The First Circuit in Leahy v. Raytheon, discussed what it described as a  
4 “dichotomy” between the summary judgment standard and the arbitrary and  
5 capricious standard. Id. It observed that while “[t]he degree of deference owed to  
6 a plan fiduciary is an underlying legal issue that remains the same through all  
7 stages of federal adjudication[, the] summary judgment is a procedural device  
8 designed to screen out cases that present no trialworthy issues.” Id. (citations  
9 omitted). It was further noted,

12           In an ERISA benefit denial case, trial is usually not an  
13 option: in a very real sense, the district court sits more as  
14 an appellate tribunal than as a trial court. It does not take  
15 evidence, but, rather, evaluates the reasonableness of an  
16 administrative determination in light of the record  
17 compiled before the plan fiduciary. No jury is involved.

18       Id. at 17-18. (citations and footnote omitted). Thus, Leahy v. Raytheon teaches that  
19 it is irrelevant that a motion for summary judgment is the procedural vehicle  
20 through which the parties request judicial review of the administrator’s  
21 determination. The court must accord due deference to the findings of the plan  
22 administrator and cannot independently weigh the proof. Id. Consequently, review  
23 is not aimed at deciding whether there is a genuine issue of material fact, but at  
24 determining as a matter of law, whether the plan administrator acted arbitrarily and  
25 capriciously in terminating plaintiff’s benefits.

26           The administrator’s decision will be upheld if it is reasoned and based on  
27 substantial evidence. Gannon v. Metro. Life Ins. Co., 360 F.3d 211, 213 (1<sup>st</sup> Cir.  
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1 CIVIL04-1010 (DRD)

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3 2004) (citing Vlass v. Raytheon Employee Disability Trust, 244 F.3d 27, 30 (1<sup>st</sup> Cir.  
 4 2001)). Substantial evidence is, in turn, evidence that is sufficient to support a  
 5 conclusion. Id. The existence of contrary evidence does not, in itself, make the  
 6 decision of the administrator arbitrary. Id.

8 Under the arbitrary and capricious standard, the review for reasonableness  
 9 must be made on the record that was before the plan administrator or fiduciary. See  
 10 Cook v. Liberty Life Assurance Co. of Boston, 320 F.3d 11, 19 (1<sup>st</sup> Cir. 2003)  
 11 (quoting Mitchell v. Eastman Kodak Co., 113 F.3d 433, 440 (3d Cir. 1997)) (“[T]he  
 12 ‘whole’ record consists of that evidence that was before the administrator when he  
 13 made the decision being reviewed.”).

15 The issue before the court is whether the decision to deny Aponte’s LTD  
 16 benefits was arbitrary and capricious.<sup>1</sup> The question a reviewing court faces “is ‘not  
 17 which side [the court] believe[s] is right, but whether [the insurer] had substantial  
 18 evidentiary grounds for a reasonable decision in its favor.’” Brigham v. Sun Life of  
 19 Canada, 317 F.3d 72, 85 (1<sup>st</sup> Cir. 2003) (quoting Doyle v. Paul Revere Life Ins. Co.,  
 20 144 F.3d 181, 184 (1<sup>st</sup> Cir. 1998)).

22 The Hartford Life Insurance Policy became effective on April 1, 2002, a date  
 23 when plaintiff was not actually working at Sensormatic. Plaintiff last worked at  
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26 <sup>1</sup>Plaintiff has made a claim for damages under Puerto Rico law that appears  
 27 in the complaint and must be dismissed insofar as it is preempted by ERISA. Since  
 28 any request for damages under Puerto Rico law is intimately related to the claim for  
 LTD benefits, the state-law claim is preempted.

1 CIVIL04-1010 (DRD)

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3 Sensormatic on March 26, 2002. (Docket No. 20, Statement of Uncontested Facts,  
 4 Attach. 5, Ex. D at 2, Attach. 6, Ex. E at 2.) Plaintiff was not eligible for coverage  
 5 until the later of the plan effective date or the date plaintiff completed the eligibility  
 6 waiting period. (*Id.*) To be eligible for coverage, plaintiff had to be an active full-  
 7 time employee working at least 30 hours a week. This option did not apply to  
 8 plaintiff since he never became a full-time employee after April 1, 2002. (Docket No.  
 9 20, Statement of Uncontested Facts, Attach. 6, Ex. E at 2.)<sup>2</sup>

12 I find that the decision to deny Aponte's LTD benefits must be upheld  
 13 inasmuch as it is supported by substantial evidence in the record and because said  
 14 decision was well within the discretion of the Plan Administrator.

15 III.

16 This court has exclusive jurisdiction over the subject matter under 28 U.S.C.  
 17 § 1331 and 29 U.S.C. § 1132(e), in that the complaint involves the rights and  
 18 obligations of the parties under an employee welfare benefit plan regulated by  
 19 ERISA. See Carpenters Local Union No. 26 v. United States Fidelity & Guar. Co., 215  
 20 F.3d 136, 139 (1<sup>st</sup> Cir. 2000); Am. Airlines, Inc. v. Cardoza-Rodríguez, 133 F.3d  
 21 111, 115 n.1 (1<sup>st</sup> Cir. 1998); Metro. Life Ins. Co. v. Colón Rivera, 204 F. Supp. 2d  
 22 273, 277 (D.P.R. 2002). ERISA's preemption clause specifies, in pertinent part, that  
 23 the provisions of ERISA "supersede any and all State laws insofar as they may now

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27 <sup>2</sup>Plaintiff apparently paid premiums for the LTD Plan after he was laid off but  
 28 since he was not eligible for coverage, the premiums should have been or should be  
 refunded. (Docket No. 20, Statement of Uncontested Facts, Attach. 9, Ex. H at 2.)

1 CIVIL04-1010 (DRD)

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3 or hereafter relate to any employee benefit plan. . . ." ERISA § 514(a), 29 U.S.C. §  
4 1144(a); Christopher v. Mobil Oil Corp., 950 F.2d 1209, 1217 (5<sup>th</sup> Cir. 1992);  
5 Admin. Comm. for the H.E.B. Inv. & Ret. Plan & the H.E.B. Inv. & Ret. Plan v.  
6 Harris, 217 F. Supp. 2d 759, 761 (E.D. Tex. 2002). The Supreme Court has  
7 repeatedly stressed that this "relate to" standard must be interpreted expansively,  
8 and that the words are to be given their "broad common-sense meaning."  
9 Ingersoll-Rand Co. v. McClendon, 498 U.S. 133, 139 (1990). Because the subject  
10 matter is preempted by ERISA, Sensormatic is not a proper party and the state law  
11 cause of action should be dismissed on independent grounds.  
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14 IV.

15 In view of the above, I recommend that the motion for summary judgment be  
16 GRANTED in its entirety.  
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18 Under the provisions of Rule 72(d), Local Rules, District of Puerto Rico, any  
19 party who objects to this report and recommendation must file a written objection  
20 thereto with the Clerk of this Court within ten (10) days of the party's receipt of this  
21 report and recommendation. The written objections must specifically identify the  
22 portion of the recommendation, or report to which objection is made and the basis  
23 for such objections. Failure to comply with this rule precludes further appellate  
24 review. See Thomas v. Arn, 474 U.S. 140, 155 (1985), reh'g denied, 474 U.S. 1111  
25 (1986); Davet v. Maccorone, 973 F.2d 22, 30-31 (1<sup>st</sup> Cir. 1992); Paterson-Leitch Co.  
26 v. Mass. Mun. Wholesale Elec. Co., 840 F.2d 985 (1<sup>st</sup> Cir. 1988); Borden v. Sec'y of  
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1 CIVIL04-1010 (DRD) 10

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Health & Human Servs., 836 F.2d 4, 6 (1<sup>st</sup> Cir. 1987); Scott v. Schweiker, 702 F.2d  
4 13, 14 (1<sup>st</sup> Cir. 1983); United States v. Vega, 678 F.2d 376, 378-79 (1<sup>st</sup> Cir. 1982);  
5 Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603 (1<sup>st</sup> Cir. 1980).

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7 At San Juan, Puerto Rico, this 29th day of November, 2005.

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10 S/ JUSTO ARENAS  
11 Chief United States Magistrate Judge

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